



**U.S. Department of Justice**

Office of Legislative Affairs

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*Office of the Assistant Attorney General*

*Washington, DC 20530*

The Honorable Kamala D. Harris  
President  
United States Senate  
Washington, DC 20510

Dear President Harris:

Since Congress enacted it in 1940, the Servicemembers Civil Relief Act (SCRA) has provided servicemembers and their families with a range of civil protections related to military service. The Department of Justice (Department) is deeply committed to protecting these cherished rights. The Department's Civil Rights Division enforces certain provisions of SCRA, including financial and housing safeguards, employment protections, and protections for access to the courts. This important work also includes an amendment to SCRA in January 2023 that seeks to bolster the economic security of military spouses by easing the burden associated with transferring professional licenses when moving due to military orders.

In light of the Department and Administration's shared commitment to our nation's military families, we are pleased to present for the consideration of the Congress a set of 14 legislative proposals that would build on the protections SCRA has provided for servicemembers and their families for nearly a century. These proposals include many commonsense improvements, including clarifying SCRA's applicability to members of the guard and reserve; prohibiting the enforceability of arbitration agreements to resolve disputes under SCRA; ensuring servicemembers and their dependents are not retaliated against for asserting their rights under SCRA; clarifying basic obligations of court appointed attorneys representing defendants in military service; allowing servicemembers to consolidate or refinance their debt to maintain eligibility for the SCRA's interest-rate benefit; and allowing servicemembers to refinance their mortgage and maintain eligibility for the SCRA's mortgage foreclosure protections.

We welcome the opportunity to discuss these proposals with you and your colleagues and are grateful for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Slade Bond".

Slade Bond  
Principal Deputy Assistant Attorney General

Enclosures

The Honorable Kamala D. Harris  
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cc:

The Honorable Patty Murray  
President Pro Tempore  
United States Senate  
Washington, DC 20510

The Honorable Charles E. Schumer  
Majority Leader  
United States Senate  
Washington, DC 20510

The Honorable Mitch McConnell  
Minority Leader  
United States Senate  
Washington, DC 20510

The Honorable Jack Reed  
Chairman  
Committee on Armed Services  
United States Senate  
Washington, DC 20510

The Honorable Roger F. Wicker  
Ranking Member  
Committee on Armed Services  
United States Senate  
Washington, DC 20510

The Honorable Jon Tester  
Chairman  
Committee on Veterans' Affairs  
United States Senate  
Washington, DC 20510

The Honorable Jerry Moran  
Ranking Member  
Committee on Veterans' Affairs  
United States Senate  
Washington, DC 20510

doj.correspondence@usdoj.gov DOJ Legislative Proposals  
Service members Civil Relief Act (SCRA)  
118<sup>th</sup> Congress

<b>SCRA Legislative Proposal #1</b>
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**SCRA, § 101 (50 U.S.C. § 3911) – DEFINITIONS OF MILITARY SERVICE AND MILITARY ORDERS**

**Summary:** This section would amend § 101 of the SCRA to clarify coverage for members of the guard and reserves, in a manner consistent with the Military Lending Act. This would resolve common confusion experienced by both servicemembers and entities doing business with servicemembers. It would also add definitions for “military orders” and “continental United States.” The amended definition of “military orders” would allow for use of a commanding officer letter in place of orders throughout the SCRA (and not just for lease terminations and interest rate reductions, as the statute currently provides).

**Redline:**

Amending subsections (1) and (2) and adding new subsections (10)-(12) in Sec. 101 (50 U.S.C. 3911)

(1) Servicemember

The term "servicemember" means –

(A) a member of the uniformed services, as that term is defined in section 101(a)(5) of title 10, United States Code including a member of a reserve component; or

(B) a member of the Army National Guard or Air National Guard as those terms are defined in sections 101(c)(2) and (4) of title 10, United States Code;

(2) Military service

The term "military service" means—

(A) active duty pursuant to title 10 or title 14 of the United States Code;

(B) active Guard and Reserve duty, as that term is defined in 10 U.S.C. 101(d)(6);

(C) full-time National Guard duty, as that term is defined in 10 U.S.C. 101(d)(5);  
~~in the case of a servicemember who is a member of the Army, Navy, Air Force, Marine Corps, or Coast Guard—~~

~~(i) active duty, as defined in section 101(d)(1) of title 10, United States Code, and~~

~~(ii) the case of a member of the National Guard, includes service under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 502(f) of title 32 for purposes of responding to a national emergency declared by the President and supported by Federal funds.~~

~~(BD) in the case of a servicemember who is service as-~~ a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration; ~~and/or~~

~~(CE) any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause.~~

~~(10) MILITARY ORDERS.—The term ‘military orders’, with respect to a servicemember, means official military orders, or any notification, certification, or verification from the Secretary concerned or the servicemember’s commanding officer, with respect to the servicemember’s past, current, or future military duty status. This includes any order further extending military service.~~

~~(11) CONTINENTAL UNITED STATES.—The term ‘continental United States’ means the 48 contiguous States and the District of Columbia.~~

~~(12) PERMANENT CHANGE OF STATION —The term ‘permanent change of station’ means those orders as defined in the Joint Travel Regulations, including separation or retirement from military service.~~

Conforming amendment - Sec. 305 (50 U.S.C. 3955) – strike subsection (i)

#### ~~(i) Definitions~~

~~In this section:~~

##### ~~(1) Military orders~~

~~The term "military orders", with respect to a servicemember, means official military orders (including orders for separation or retirement), or any notification, certification, or verification from the servicemember's commanding officer, with respect to the servicemember's current or future military duty status.~~

##### ~~(2) ConUS~~

~~The term "continental United States" means the 48 contiguous States and the District of Columbia.~~

##### ~~(3) Permanent change of station~~

~~The term "permanent change of station" includes separation or retirement from military service.~~

Conforming amendment - Sec. 207 (50 U.S.C. 3937(b)(2))

(2) Limitation effective as of date of order to active duty

Upon receipt of written notice and a copy of military orders ~~calling a servicemember to military service~~, the creditor shall treat the debt in accordance with subsection (a), effective as of the date on which the servicemember is called to military service.

**Legislative Language:**

(a) DEFINITIONS FOR ENTIRE ACT.—Section 101 of the Servicemembers Civil Relief Act (SCRA; 50 U.S.C. 3911) is amended as follows:

Paragraph (1): designate current language as subparagraph (A), and add “including a member of a reserve component; or” at the end. Add new subparagraph (B) to read as follows:

“(B) a member of the Army National Guard or Air National Guard, as defined those terms are defined in sections 101(c)(2) and (4) of title 10, United States Code;”.

Paragraph (2): strike subparagraph (A) and replace with new subparagraphs (A), (B), and (C) as follows:

“(A) active duty pursuant to title 10 or title 14 of the United States Code;

“(B) active Guard and Reserve duty, as that term is defined in 10 U.S.C. 101(d)(6);

“(C) full-time National Guard duty, as that term is defined in 10 U.S.C. 101(d)(5);”.

Subsection (2): redesignate subparagraph (B) as (D) and revise as follows: strike “in the case of a servicemember who is” and replace with “Service as”; strike “and” and replace with “or”.

Subsection (2): redesignate subparagraph (C) as subparagraph (E).

Add new paragraphs (10), (11) and (12):

“(10) MILITARY ORDERS.—The term ‘military orders’, with respect to a servicemember, means official military orders, or any notification, certification, or verification from the Secretary or the servicemember’s commanding officer, with respect to the servicemember’s past current or future military duty status. This includes any order further extending military service.

“(11) CONTINENTAL UNITED STATES.—The term ‘continental United States’ means the 48 contiguous States and the District of Columbia.”.

“(12) PERMANENT CHANGE OF STATION —The term ‘permanent change of station’ means those orders as defined in the Joint Travel Regulations, including separation or retirement from military service.”.

(b) CONFORMING AMENDMENTS.—Such Act is further amended—

(1) in section 305 (50 U.S.C. 3955), by striking subsection (i); and

(2) in section 207(b)(2) (50 U.S.C. 3937(b)(2)), by inserting “military” before “orders” and striking “calling a servicemember to military service”.

## **SCRA Legislative Proposal #2**

### **SCRA, § 102 (50 U.S.C. § 3912) – PROHIBITION OF ARBITRATION AGREEMENTS TO RESOLVE SCRA DISPUTES**

**Summary:** This provision would prohibit the enforceability of arbitration agreements to resolve disputes under the SCRA. This language is similar to a prohibition under the Military Lending Act (10 U.S.C. § 987(f)(4)). We also note that bipartisan legislation has previously been introduced to accomplish the same goal of prohibiting arbitration under the SCRA (see, for example, H.R. 2196 in the 117<sup>th</sup> Congress).

#### **Redline:**

SCRA, § 102 (50 U.S.C. § 3912). Jurisdiction and applicability of Act.

#### **(a) Jurisdiction**

This Act applies to—

- (1) the United States;
- (2) each of the States, including the political subdivisions thereof; and
- (3) all territory subject to the jurisdiction of the United States.

#### **(b) Applicability to proceedings**

This Act applies to any judicial or administrative proceeding commenced in any court or agency in any jurisdiction subject to this Act. This Act does not apply to criminal proceedings.

#### **(c) Court in which application may be made**

When under this Act any application is required to be made to a court in which no proceeding has already been commenced with respect to the matter, such application may be made to any court which would otherwise have jurisdiction over the matter.

#### **(d) Prohibition of Arbitration**

**Notwithstanding any other provision of law, no agreement to arbitrate any dispute involving a controversy pursuant to this Act shall be enforceable against any servicemember or servicemember’s dependent, or any person who was a servicemember or a servicemember’s dependent at the time that the agreement was made.**

#### **Legislative Language:**

Section 102 of the SCRA (50 U.S.C. 3912) is amended by adding at the end the following new subsection:

“(d) PROHIBITION OF ARBITRATION.—

Notwithstanding any other provision of law, no agreement to arbitrate any dispute involving a controversy pursuant to this Act shall be enforceable against any servicemember or servicemember’s dependent, or any person who was a servicemember or a servicemember’s dependent at the time that the agreement was made.”.

## SCRA Legislative Proposal #3

### SCRA, § 108 (50 U.S.C. § 3919) – PROHIBITION ON RETALIATION AGAINST SERVICEMEMBERS

**Summary:** This section provides an antiretaliation provision to ensure that servicemembers and their dependents will not be retaliated against for asserting their rights under the SCRA.

#### **Redline:**

SCRA, § 108 (50 U.S.C. §3919). ~~Exercise of rights under chapter not to affect certain future financial transactions~~ Prohibition on Retaliation Against Servicemembers

(a) Application or receipt - Application or receipt by a servicemember, ~~or a servicemember's dependent, for rights or protections, or receipt by a servicemember of, a stay, postponement, or suspension~~ pursuant to this Act ~~in the payment of a tax, fine, penalty, insurance premium, or other civil obligation or liability of that servicemember~~ shall not itself (without regard to other considerations) provide the basis for any of the following:

- (1) A determination by a lender or other person that the servicemember is unable to pay the civil obligation or liability in accordance with its terms.
- (2) With respect to a credit transaction between a creditor and the servicemember—
  - (A) a denial or revocation of credit by the creditor;
  - (B) a change by the creditor in the terms of an existing credit arrangement; or
  - (C) a refusal by the creditor to grant credit to the servicemember in substantially the amount or on substantially the terms requested.
- (3) An adverse report relating to the creditworthiness of the servicemember by or to a person engaged in the practice of assembling or evaluating consumer credit information.
- (4) A refusal by an insurer to insure the servicemember.
- (5) An annotation in a servicemember's record by a creditor or a person engaged in the practice of assembling or evaluating consumer credit information, identifying the servicemember as a member of the National Guard or a reserve component.
- (6) A change in the terms offered or conditions required for the issuance of insurance.
- (7) A refusal by a lessor to lease a premise or vehicle.
- (8) A refusal by a lessor, at the request of the servicemember, to add the servicemember as a lessee on a dependent's lease of a premise or vehicle.



(b) Eligibility

(1) In General - In addition to the rights and protections under subsection (a), an individual who is eligible, or may become eligible by virtue of military service, or a commitment to perform future military service, for rights or protections under any provision of this Act may not be denied access to credit, housing, or services by reason of such eligibility or potential eligibility.

(2) Construction - Nothing in this subsection shall be construed to prohibit a lender or service provider from considering all relevant factors, other than the eligibility or potential eligibility of an individual for rights or protections under a provision of this Act, in making a determination as to whether it is appropriate to provide services or extend credit.

**Legislative Language:**

(a) PROHIBITION ON RETALIATION AGAINST SERVICEMEMBERS.—Section 108 of the SCRA (50 U.S.C. 3919) is amended—

(1) by striking “Application by a servicemember for, or receipt by a servicemember of, a stay, postponement, or suspension” and inserting “(a) APPLICATION OR RECEIPT.—Application or receipt by a servicemember, or a servicemember’s dependent, for rights or protections”;

(2) by striking “in the payment of a tax, fine, penalty, insurance premium, or other civil obligation or liability of that servicemember”;

(3) by adding new paragraph (7) to read as follows: “(7) A refusal by a lessor to lease a premise or vehicle”; and

(4) by adding at the end the following new subsection:

“(b) ELIGIBILITY.—

“(1) IN GENERAL.—In addition to the rights and protections under subsection (a), an individual who is eligible, or may become eligible by virtue of military service, or a commitment to perform future military service, for rights or protections under any provision of this Act may not be denied access to credit, housing, or services by reason of such eligibility or potential eligibility.

“(2) CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit a lender or service provider from considering all relevant factors, other than the eligibility or potential eligibility of an individual for rights or protections under a provision of this Act, in making a

determination as to whether it is appropriate to provide services or extend credit.”.

(b) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of such section is amended to read as follows:

**“SEC. 108. PROHIBITION ON RETALIATION AGAINST SERVICEMEMBERS.”.**

(2) TABLE OF CONTENTS.—The item relating to that section in the table of contents in section 1(b) of the SCRA is amended to read as follows:

“108. Prohibition on retaliation against servicemembers.”.

## SCRA Legislative Proposal #4

### SCRA, § 201 (50 U.S.C. § 3931) – CLARIFICATION OF AFFIDAVIT REQUIREMENT

**Summary:** This section clarifies that the plaintiff in a default judgment action has an affirmative obligation to determine the defendant's military status and that the plaintiff must take steps accordingly, including reviewing and attaching available Department of Defense records.

#### **Redline:**

(b) Affidavit requirement

#### **(1) Plaintiff to conduct a search to determine military status.**

Before filing an affidavit under subparagraph (A), the plaintiff shall conduct a diligent and reasonable investigation to determine whether or not the defendant is in military service, including a search of available Department of Defense records and any other information available to the plaintiff.

#### **(12) Plaintiff to file affidavit.**

In any action or proceeding covered by this section, the ~~court-plaintiff~~, before ~~entering judgment for the plaintiff seeking a default judgment~~, shall ~~require the plaintiff to~~ file with the court an affidavit—

(A) stating—

"(i) whether or not the defendant is in military service ~~and showing necessary facts to support the affidavit~~; or

(ii) that the plaintiff is unable to determine whether or not the defendant is in military service; and

(B) showing necessary facts to support the affidavit, including--

(i) all steps taken to determine the defendant's military status;

(ii) an attached copy of a military status report produced by the Department of Defense Manpower Data Center; and

(iii) attachment of any other documents on which the plaintiff relied in preparing the affidavit.

#### **Legislative Language**

Section 201(b) of the SCRA (50 U.S.C. 3931(b)) is amended to insert a new Paragraph (1) to read as follows:

“(1) Plaintiff to conduct a search to determine military status.

“Before filing an affidavit under subparagraph (A), the plaintiff shall conduct a diligent and reasonable investigation to determine whether or not the defendant is in military service, including a search of available Department of Defense records and any other information available to the plaintiff.

Paragraph (1) is redesignated as paragraph (2), and is amended to read as follows:

“(2) Plaintiff to file affidavit.

“In any action or proceeding covered by this section, the plaintiff, before seeking a default judgment, shall file with the court an affidavit—

“(A) stating—

“(i) whether or not the defendant is in military service; or

“(ii) that the plaintiff is unable to determine whether or not the defendant is in military service; and

“(B) showing necessary facts to support the affidavit, including:

“(i) all steps taken to determine the defendant’s military status;

“(ii) an attached copy of a military status report produced by the Department of Defense Manpower Data Center; and

“(iii) attachment of any other documents on which the plaintiff relied in preparing the affidavit.

<b>SCRA Legislative Proposal #5</b>
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**SCRA, § 201 (50 U.S.C. § 3931) – OBLIGATIONS OF ATTORNEY APPOINTED TO REPRESENT DEFENDANT IN MILITARY SERVICE.**

**Summary:** This section clarifies basic obligations for attorneys appointed by a court to represent defendants in military service. It imposes an affirmative obligation on each such attorney to use due diligence to locate and contact the defendant, and to act in that defendant's best interests. It also provides a remedy for defendants in military service who have been harmed by a court-appointed attorney's failure to meet these affirmative obligations. This proposal also specifies that the court-appointed attorney shall represent the servicemember *pro bono*.

**Redline:**

**(b)(2) Appointment of attorney to represent defendant in military service**

(A) If, in an action covered by this section, it appears that the defendant is in military service, the court ~~may shall~~ not enter a judgment until after the court appoints a *pro bono* attorney to represent the defendant.

(B) The court-appointed attorney shall use due diligence to locate and contact the defendant. The plaintiff shall provide to the court-appointed attorney all contact information it has for the defendant. A court-appointed attorney unable to contact the defendant shall report to the court on all of the attorney's efforts to make contact.

(C) Upon contacting the defendant, the court-appointed attorney shall advise the defendant of the nature of the lawsuit and the defendant's rights provided by this Act, including rights to obtain a stay and to request that the court adjust an obligation. Regardless of whether contact is made, the court-appointed attorney shall assert such rights on behalf of defendant, provided that there is an adequate basis in law and fact, unless the defendant provides informed consent to not assert such rights.

(D) If an attorney appointed under this section to represent a ~~servicemember defendant in military service~~ cannot locate the ~~servicemember defendant~~, actions by the attorney in the case shall not waive any defense of the servicemember or otherwise bind the servicemember.

**(g) Authority for court to vacate or set aside judgment.**

If a default judgment is entered in an action covered by this section against a servicemember during the servicemember's period of military service (or within 60 days after termination of or release from such military service), the court entering the judgment shall, upon application by or on behalf of the servicemember, reopen the judgment for the purpose of allowing the servicemember to defend the action if it appears that—

(A) (i) the servicemember was materially affected by reason of that military service in making a defense to the action; and ~~(B)(ii)~~ (ii) the servicemember has a meritorious or legal defense to the action or some part of it; or

(B) an attorney appointed to represent the servicemember failed to adequately represent the best interests of the defendant.

**Legislative Language:**

Paragraph (2) of section 201(b) of the SCRA (50 U.S.C. 3931(b)) is amended to read as follows:

“(2) Appointment of attorney to represent defendant in military service.

“(A) If, in an action covered by this section, it appears that the defendant is in military service, the court shall not enter a judgment until after the court appoints a *pro bono* attorney to represent the defendant.

“(B) The court-appointed attorney shall use due diligence to locate and contact the defendant. The plaintiff shall provide to the court-appointed attorney all contact information it has for the defendant. A court-appointed attorney unable to contact the defendant shall report to the court on all of the attorney’s efforts to make contact.

“(C) Upon contacting the defendant, the court-appointed attorney shall advise the defendant of the nature of the lawsuit and the defendant’s rights provided by this Act, including rights to obtain a stay and to request that the court adjust an obligation. Regardless of whether contact is made, the court-appointed attorney shall assert such rights on behalf of defendant, provided that there is an adequate basis in law and fact, unless the defendant provides informed consent to not assert such rights.

“(D) If an attorney appointed under this section to represent a defendant in military service cannot locate the defendant, actions by the attorney in the case shall not waive any defense of the servicemember or otherwise bind the servicemember.”.

Paragraph (1) of section 201(g) of the SCRA (50 U.S.C. 3931(g)) is amended to read as follows:

“(g) Vacation or setting aside of default judgments.—

“(1) Authority for court to vacate or set aside judgment.

If a default judgment is entered in an action covered by this section against a servicemember during the servicemember's period of military service (or within 60 days after termination of or release from such military service), the court entering the judgment shall, upon application by or on behalf of the servicemember, reopen the judgment for the purpose of allowing the servicemember to defend the action if it appears that—

“(A) (i) the servicemember was materially affected by reason of that military service in making a defense to the action; and (ii) the

servicemember has a meritorious or legal defense to the action or some part of it; or

“(B) an attorney appointed to represent the servicemember failed to adequately represent the best interests of the defendant.”.

## SCRA Legislative Proposal #6

### SCRA, § 207 (50 U.S.C. § 3937 – INTEREST RATE CAP TO APPLY TO DEPENDENTS

**Summary:** This section would amend Section 207 of the SCRA (50 U.S.C. 3937) to allow dependents of servicemembers to qualify for a 6% interest rate-cap on debts incurred prior to the servicemembers' military service. The SCRA currently allows dependents to receive this benefit only for joint debts. Expanding coverage to allow dependents to qualify for this benefit independently is consistent with the eligibility criteria for the Military Lending Act. This change will benefit military families, but also assist creditors by streamlining categories of eligibility between the two statutes.

#### **Redline:**

##### (a) Interest rate limitation

###### (1) Applicability

This section applies to an obligation or liability bearing interest at a rate in excess of 6 percent per year that is incurred by –

(A) a servicemember;

(B) a servicemember and the servicemember's dependent, jointly; or

(C) a servicemember's dependent

before the servicemember enters military service.

###### (12) Limitation to 6 percent

An obligation or liability referenced in paragraph (1) bearing interest at a rate in excess of 6 percent per year that is incurred by a servicemember, or the servicemember and the servicemember's spouse jointly, before the servicemember enters military service shall not bear interest at a rate in excess of 6 percent per year—

(A) during the period of military service and one year thereafter, in the case of an obligation or liability consisting of a mortgage, trust deed, or other security in the nature of a mortgage; or

(B) during the period of military service, in the case of any other obligation or liability.

###### (23) Forgiveness of interest in excess of 6 percent

Interest at a rate in excess of 6 percent per year that would otherwise be incurred but for the prohibition in paragraph (12) is forgiven.

###### (34) Prevention of acceleration of principal



The amount of any periodic payment due from a servicemember, the servicemember and the servicemember's dependent jointly, or the servicemember's dependent, under the terms of the instrument that created an obligation or liability covered by this section shall be reduced by the amount of the interest forgiven under paragraph (23) that is allocable to the period for which such payment is made.

(5) This interest rate limitation does not apply to obligations or liabilities incurred jointly by a servicemember's dependent and a party other than the servicemember on whom they are dependent.

(b) Implementation of limitation

(1) Proof of military service and dependency

(A) In general

Not later than 180 days after the date of a servicemember's termination or release from military service, in order for an obligation or liability ~~of the servicemember~~ to be subject to the interest rate limitation in subsection (a), the servicemember, or the servicemember's dependent, shall provide to the creditor written notice and a copy of—

(i) the military orders ~~calling the servicemember to military service and any orders further extending military service~~ indicating the servicemember's current, future, or past military duty status; or

(ii) any other appropriate indicator of military service, including a certified letter from a commanding officer or a military status report produced by the Defense Manpower Data Center.

(B) Dependents

In addition to providing proof of military service as required by subsection (b)(1)(A), dependents of servicemembers who are eligible for protection pursuant to subsection (a)(1)(C) shall also provide documentation establishing their dependency status at the time the debt or obligation was incurred and continuing until the servicemember entered military service. Such documentation may include a marriage certificate, birth certificate, dependent military identification card, completed Defense Enrollment and Eligibility Reporting System (DEERS) enrollment, or any other appropriate indicator of dependency status.

(BC) Independent verification by creditor

(i) In general

A creditor may use, in lieu of notice and documentation under subparagraph (A), information retrieved from the Defense Manpower Data Center through the creditor's normal business reviews of such Center for

purposes of obtaining information indicating that the servicemember is on active duty.

(ii) Safe harbor

A creditor that uses the information retrieved from the Defense Manpower Data Center under clause (i) with respect to a servicemember has not failed to treat the debt of the servicemember in accordance with subsection (a) if—

(I) such information indicates that, on the date the creditor retrieves such information, the servicemember is not on active duty; and

(II) the creditor has not, by the end of the 180-day period under subparagraph (A), received the written notice and documentation required under that subparagraph with respect to the servicemember.

(2) Limitation effective as of date of order to active duty

Upon receipt of written notice and a copy of orders calling a servicemember to military service, the creditor shall treat the debt in accordance with subsection (a), effective as of the date on which the servicemember is called to military service.

(c) Creditor protection

A court may grant a creditor relief from the limitations of this section if, in the opinion of the court, the ability of the servicemember, the servicemember and the servicemember's dependent jointly, or the servicemember's dependent, to pay interest upon the obligation or liability at a rate in excess of 6 percent per year is not materially affected by reason of the servicemember's military service.

**Legislative Language**

In section 207(a) of the SCRA (50 U.S.C. 3937(a)), insert new paragraph (1) to read as follows:

“(1) APPLICABILITY

“This section applies to an obligation or liability bearing interest at a rate in excess of 6 percent per year that is incurred by –

“(A) a servicemember;

“(B) a servicemember and the servicemember's dependent, jointly; or

“(C) a servicemember's dependent

“before the servicemember enters military service.”.

In subsection (a), redesignate paragraph (1) as paragraph (2); strike “bearing interest at a rate in excess of 6 percent per year that is incurred by a servicemember, or the servicemember and the servicemember's spouse jointly, before the servicemember enters military service” and replace with “referenced in paragraph (1 )”.

Redesignate paragraph (a)(2) as (a)(3), and amend the internal reference to paragraph (1) to read paragraph (2).

In paragraph (a)(3), redesignate as paragraph (a)(4) and insert “, the servicemember and the servicemember’s dependent jointly, or the servicemember’s dependent,” after “servicemember”; amend the internal reference to paragraph (2) to read paragraph (3).

Insert new paragraph (5) in section 3937(a):

“(5) This interest rate limitation does not apply to obligations or liabilities incurred jointly by a servicemember’s dependent and a party other than the servicemember on whom they are dependent.”.

Paragraph (b)(1) is amended to read as follows:

“(1) PROOF OF MILITARY SERVICE AND DEPENDENCY

“(A) In general

“Not later than 180 days after the date of a servicemember's termination or release from military service, in order for an obligation or liability to be subject to the interest rate limitation in subsection (a), the servicemember, or the servicemember’s dependent, shall provide to the creditor written notice and a copy of—

“(i) the military orders indicating the servicemember’s current, future, or past military duty status; or

“(ii) any other appropriate indicator of military service, including a certified letter from a commanding officer or a military status report produced by the Defense Manpower Data Center.”

“(B) Dependents

“In addition to providing proof of military service as required by subsection (b)(1)(A), dependents of servicemembers who are eligible for protection pursuant to subsection (a)(1)(C) shall also provide documentation establishing their dependency status at the time the debt or obligation was incurred and continuing until the servicemember entered military service. Such documentation may include a marriage certificate, birth certificate, dependent military identification card, completed Defense Enrollment and Eligibility Reporting System (DEERS) enrollment, or any other appropriate indicator of dependency status.”.

Paragraph (b)(1)(B) (“Independent verification by creditor”) is redesignated as subparagraph (C).

Section 207(c) of the SCRA (50 U.S.C. 3937(c)) is amended to read as follows:

“(c) CREDITOR PROTECTION

“A court may grant a creditor relief from the limitations of this section if, in the opinion of the court, the ability of the servicemember, the servicemember and the servicemember’s dependent jointly, or the servicemember’s dependent, to pay interest upon the obligation or liability at a rate in excess of 6 percent per year is not materially affected by reason of the servicemember's military service.”

## SCRA Legislative Proposal #7

### SCRA, § 207 (50 U.S.C. § 3937) – INTEREST RATE LIMITATION ON STUDENT LOAN DEBT ENTERED INTO DURING MILITARY SERVICE TO CONSOLIDATE OR REFINANCE DEBT INCURRED BEFORE MILITARY SERVICE

**Summary:** This section would amend Section 207 of the SCRA (50 U.S.C. 3937) to allow servicemembers to consolidate or refinance their debt and maintain eligibility for the SCRA's interest-rate benefit.

#### **Redline:**

##### (a) Interest rate limitation

###### (1) Limitation to 6 percent on debt incurred before military service.

An obligation or liability bearing interest at a rate in excess of 6 percent per year that is incurred by a servicemember, or the servicemember and the servicemember's spouse jointly, before the servicemember enters military service shall not bear interest at a rate in excess of 6 percent—

(A) during the period of military service and one year thereafter, in the case of an obligation or liability consisting of a mortgage, trust deed, or other security in the nature of a mortgage; or

(B) during the period of military service, in the case of any other obligation or liability.

###### (2) Limitation to 6 percent on student loan debt consolidated or refinanced during military service.

Student loan debt bearing interest at a rate in excess of 6 percent per year that is incurred by a servicemember, or the servicemember and the servicemember's spouse jointly, during military service to consolidate or refinance obligations incurred by the servicemember before such military service shall not bear an interest at a rate in excess of 6 percent during the period of military service.

###### (23) Forgiveness of interest in excess of 6 percent

Interest at a rate in excess of 6 percent per year that would otherwise be incurred but for the prohibition in paragraph (1) or (2) is forgiven.

###### (34) Prevention of acceleration of principal

The amount of any periodic payment due from a servicemember under the terms of the instrument that created an obligation or liability covered by this section shall be reduced by the amount of the interest forgiven under paragraph (23) that is allocable to the period for which such payment is made.

(b) Implementation of limitation

(1) Proof of military service

(A) In general

Not later than 180 days after the date of a servicemember's termination or release from military service, in order for an obligation or liability of the servicemember to be subject to ~~the interest rate limitation in subsection (a)~~ an interest rate limitation in paragraph (1) or (2) of subsection (a), the servicemember shall provide to the creditor written notice and a copy of—

- (i) the military orders calling the servicemember to military service and any orders further extending military service; or
- (ii) any other appropriate indicator of military service, including a certified letter from a commanding officer.

(B) Independent verification by creditor

(i) In general

A creditor may use, in lieu of notice and documentation under subparagraph (A), information retrieved from the Defense Manpower Data Center through the creditor's normal business reviews of such Center for purposes of obtaining information indicating that the servicemember is on active duty.

(ii) Safe harbor

A creditor that uses the information retrieved from the Defense Manpower Data Center under clause (i) with respect to a servicemember has not failed to treat the debt of the servicemember in accordance with subsection (a) if—

- (I) such information indicates that, on the date the creditor retrieves such information, the servicemember is not on active duty; and
- (II) the creditor has not, by the end of the 180-day period under subparagraph (A), received the written notice and documentation required under that subparagraph with respect to the servicemember.

(2) Limitation effective ~~date as of date of order to active duty~~

Upon receipt of written notice and a copy of orders calling a servicemember to military service, the creditor shall treat the debt in accordance with subsection (a), effective as of

the date on which the servicemember is called to military service in the case of an obligation or liability covered by subsection (a)(1), or as of the date the servicemember (or servicemember and spouse jointly) incurs the obligation or liability covered by subsection (a)(2).

#### (d) Definitions

In this section:

##### (1) Interest

The term "interest" includes service charges, renewal charges, fees, or any other charges (except bona fide insurance) with respect to an obligation or liability.

##### (2) Obligation or liability

The term "obligation or liability" includes an obligation or liability consisting of a mortgage, trust deed, or other security in the nature of a mortgage.

##### (3) Student loan

The term “student loan” means each of the following:

(A) A federal student loan made, insured, or guaranteed under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 *et seq.*).

(B) A private student loan as that term is defined in section 140(a) of the Truth in Lending Act (15 U.S.C. 1650(a)).

#### **Legislative Language**

Subsection (a) of section 207 of the Servicemembers Civil Relief Act ([50 U.S.C. 3937](#)) is amended—

(1) in paragraph (1), by inserting “ON DEBT INCURRED BEFORE SERVICE” after “LIMITATION TO 6 PERCENT”;

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(3) by inserting after paragraph (1) the following new paragraph (2):

“(2) LIMITATION TO 6 PERCENT ON STUDENT LOAN DEBT CONSOLIDATED OR REFINANCED DURING MILITARY SERVICE.— Student loan debt bearing interest at a rate in excess of 6 percent per year that is incurred by a servicemember, or the servicemember and the servicemember's spouse jointly, during military service to consolidate or refinance obligations incurred by the servicemember before such military service shall not bear an interest at a rate in excess of 6 percent during the period of military service.”;

(4) in paragraph (3), as redesignated by paragraph (2) of this subsection, by inserting “or (2)” after “paragraph (1)”; and

(5) in paragraph (4), as so redesignated, by striking “paragraph (2)” and inserting “paragraph (3)”.

IMPLEMENTATION OF LIMITATION.—Subsection (b) of such section is amended—

(1) in paragraph (1)(A), by striking “the interest rate limitation in subsection (a)” and inserting “an interest rate limitation in paragraph (1) or (2) of subsection (a)”; and

(2) in paragraph (2)—

(A) in the paragraph heading, by striking “EFFECTIVE AS OF DATE OF ORDER TO ACTIVE DUTY” and inserting “EFFECTIVE DATE”; and

(B) by inserting before the period at the end the following: “in the case of an obligation or liability covered by subsection (a)(1), or as of the date the servicemember (or servicemember and spouse jointly) incurs the obligation or liability covered under subsection (a)(2)”.

Insert new paragraph (3) under subsection (d):

“(3) STUDENT LOAN.—The term ‘student loan’ means the following:

“(A) A federal student loan made, insured, or guaranteed under title IV of the Higher Education Act of 1965 ([20 U.S.C. 1070](#) et seq.).

“(B) A private student loan as that term is defined in section 140(a) of the Truth in Lending Act ([15 U.S.C. 1650\(a\)](#)).”.



<b>SCRA Legislative Proposal #8</b>
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**SCRA, § 303 (50 U.S.C. § 3953) – MORTGAGE PROTECTION CLARIFICATIONS**

**Summary:** This section changes “filed” to “pending” in section 303 (50 U.S.C. 3953(b)), so that servicemembers get stays of proceedings or adjustments of the obligation even if the action was filed before they entered service, or during a break in service. This section also removes “with a return made and approved by the court” to harmonize it with other provisions.

**Redline:****(b) Stay of proceedings and adjustment of obligation**

In an action ~~filed~~ pending during, or within 90 days after, a servicemember's period of military service to enforce an obligation described in subsection (a), the court may after a hearing and on its own motion and shall upon application by a servicemember when the servicemember's ability to comply with the obligation is materially affected by military service—

- (1) stay the proceedings for a period of time as justice and equity require, or
- (2) adjust the obligation to preserve the interests of all parties.

**(c) Sale or foreclosure**

A sale, foreclosure, or seizure of property for a breach of an obligation described in subsection (a) shall not be valid if made during, or within 90 days after, the period of the servicemember's military service except—

- (1) upon a court order granted before such sale, foreclosure, or seizure ~~with a return made and approved by the court~~; or
- (2) if made pursuant to an agreement as provided in section 3918 of this title.

**Legislative Language**

Section 303 of the SCRA (50 U.S.C. 3953) is amended— (1) in subsection (b), by striking “filed” and inserting “pending”; and (2) in subsection (c)(1), by striking “with a return made and approved by the court”.

<b>SCRA Legislative Proposal #9</b>
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**SCRA, §303 (50 U.S.C. § 3953) – MORTGAGE REFINANCE PROTECTION**

**Summary:** This section would amend Section 303 of the SCRA (50 U.S.C. 3953) to allow servicemembers to refinance their mortgage and maintain eligibility for the SCRA's mortgage foreclosure protections.

**Redline:**

(a) Mortgage as security

This section applies only to an obligation on real or personal property owned by a servicemember that is secured by a mortgage, trust deed, or other security in the nature of a mortgage, and—

- (1) originated before the period of the servicemember's military service and for which the servicemember is still obligated; ~~and or~~
- (2) originated during a period of military service to refinance a mortgage debt that was first originated before such period of military service

**Legislative Language**

Section 303(a) of the SCRA (50 U.S.C. 3953(a)) is amended to read as follows:

"(a) Mortgage as security

:This section applies only to an obligation on real or personal property owned by a servicemember that is secured by a mortgage, trust deed, or other security in the nature of a mortgage, and—

- "(1) originated before the period of the servicemember's military service and for which the servicemember is still obligated; or
- "(2) originated during a period of military service to refinance a mortgage debt that was first originated before such period of military service."

<b>SCRA Legislative Proposal #10</b>
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**SCRA, § 305 (50 U.S.C. § 3955) – PROHIBITION OF WAIVER OF RIGHT TO TERMINATE RESIDENTIAL OR MOTOR VEHICLE LEASE.**

**Summary:** This section provides that the rights with respect to termination of residential and motor vehicle leases conferred in section 305 (50 U.S.C. 3955) may not be waived under any circumstances. This purpose of this proposal is to address concerns identified in a June 2021 GAO report regarding waivers of SCRA rights.<sup>1</sup>

**Redline:**

(j) Waiver not permitted. The provisions of this section may not be waived by the agreement of the parties under any circumstances.

**Legislative Language**

(Section 305 of the SCRA (50 U.S.C. 3955) is amended by inserting the following new subsection at the end thereof:

“(i) Waiver not permitted. The provisions of this section may not be waived by the agreement of the parties under any circumstances.”.

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<sup>1</sup> GAO Report, “Servicemember Rights: Stakeholders Reported Servicemembers Have Limited Understanding about Waivers of Their Consumer Rights and Protections” (June 29, 2021), <https://www.gao.gov/assets/gao-21-550r.pdf>

<b>SCRA Legislative Proposal #11</b>
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**SCRA, § 308 (50 U.S.C. § 3959) – EXTENSION OF PROTECTIONS TO CO-LESSEES**

**Summary:** This section allows for co-lessees to apply to a court to seek SCRA protections if their ability to comply with a lease is “materially affected” by a servicemember’s military service.

**Redline:**

SCRA, § 308 (50 U.S.C. §3959). Extension of protections to dependents and co-lessees

Upon application to a court, a dependent or co-lessee of a servicemember is entitled to the protections of this title if the dependent’s or co-lessee’s ability to comply with a lease, contract, bailment, or other obligation is materially affected by reason of the servicemember’s military service.

**Legislative Language:**

The title of Section 308 (50 U.S.C. 3959) is amended to add “and co-lessees” at the end.

Section 308 (50 U.S.C. 3959) is amended to insert “or co-lessee” after “dependent” and “or co-lessee’s” after “dependent’s.”

## SCRA Legislative Proposal #12

### SCRA, § 705 (50 U.S.C. § 4025) – RESIDENCY OF DEPENDENTS OF MILITARY PERSONNEL

**Summary:** This proposal clarifies that a dependent family member of a servicemember does not have to accompany that servicemember who is absent from a State in compliance with military or naval orders in order for the dependent family member to retain a residence or domicile in that State. While a servicemember is deployed, a dependent family member may temporarily relocate to an area to be closer to family or a support network, particularly when there are small children, rather than remaining in a place with no family support. This clarification will allow the dependent family member the same residency rights as a servicemember, even if the dependent family member does not accompany the servicemember to the duty station. This proposal also contains an additional technical fix to remove reference to naval orders, since such orders are already covered by the statute's definition of military service.

#### **Redline:**

SCRA, § 705 (50 U.S.C. §4025). Guarantee of residency for military personnel and ~~spouses~~ dependents of military personnel

#### (a) In general

For the purposes of voting for any Federal office (as defined in 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) or a State or local office, a person who is absent from a State in compliance with military ~~or naval~~ orders shall not, solely by reason of that absence—

- (1) be deemed to have lost a residence or domicile in that State, without regard to whether or not the person intends to return to that State;
- (2) be deemed to have acquired a residence or domicile in any other State; or
- (3) be deemed to have become a resident in or a resident of any other State.

#### (b) ~~Spouses-Dependents~~

For the purposes of voting for any Federal office (as defined in 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) or a State or local office—

- (1) a dependent of a servicemember who is absent from a State because the servicemember is absent from that same State in compliance with military orders shall not, solely by reason of absence, whether or not accompanying the servicemember, a person who is absent from a State because the person is accompanying the person's spouse who is absent from that same State in compliance with military or naval orders shall not, solely by reason of that absence—

- (A) be deemed to have lost a residence or domicile in that State, without regard to whether or not the ~~person~~ dependent intends to return to that State;

(B) be deemed to have acquired a residence or domicile in any other State; or

(C) be deemed to have become a resident in or a resident of any other State; and

Conforming Amendment for Table of Contents:

705. Guarantee of residency for military personnel and ~~spouses~~dependents of military personnel.

### **Legislative Language**

IN GENERAL.—

Section 705(a) of the Servicemembers Civil Relief Act ([50 U.S.C. 4025\(a\)](#)) is amended by striking “or naval”.

Section 705(b) of the Servicemembers Civil Relief Act ([50 U.S.C. 4025\(b\)](#)) is amended—

(1) in the matter before paragraph (1), by striking “a person” and all that follows through “that absence” and inserting “a dependent of a servicemember who is absent from a State because the servicemember is absent from that same State in compliance with military orders shall not, solely by reason of absence, whether or not accompanying the servicemember”; and

(2) in paragraph (1), by striking “the person” and inserting “the dependent”.

CLERICAL AMENDMENTS.—Such Act ([50 U.S.C. 3901 et seq.](#)) is further amended—

(1) in section 705 ([50 U.S.C. 4025](#))—

(A) in the section heading, by striking “SPOUSES” and inserting “DEPENDENTS”; and

(B) in the heading for subsection (b), by striking “SPOUSES” and inserting “DEPENDENTS”; and

(2) in the table of sections in section 1 ([50 U.S.C. 3901](#)), by striking the item relating to section 705 and inserting the following new item:

“Sec. 705. Guarantee of residency for military personnel and dependents of military personnel.”.

## SCRA Legislative Proposal #13

### SCRA, § 801 (50 U.S.C. § 4041) – ENFORCEMENT BY THE ATTORNEY GENERAL.

**Summary:** This section grants authority to the Attorney General to issue civil investigative demands in investigations under the SCRA. The authority is similar to that provided under the False Claims Act, 31 U.S.C. 3733, except that it does not include the authority to compel oral testimony or sworn answers to interrogatories. This section also clarifies that the Attorney General's authority to enforce the Act applies to violations of the Act that occurred before enactment of the Veterans' Benefits Act of 2010, Public Law 111-275 (Oct. 13, 2010), which made such authority explicit.

#### **Redline:**

New subsections (d), (e), and (f) added to SCRA Sec. 801 (50 U.S.C. 4041)

#### (d) Issuance and service of civil investigative demands

Whenever the Attorney General, or a designee, has reason to believe that any person may be in possession, custody, or control of any documentary material relevant to an investigation under this Act, the Attorney General, or a designee, may, before commencing a civil action under subsection (a), issue in writing and cause to be served upon such person, a civil investigative demand requiring—

- (1) the production of such documentary material for inspection and copying;
- (2) that the custodian of such documentary material answer in writing written questions with respect to such documentary material; or
- (3) the production of any combination of such documentary material or answers.

#### (e) Relation to False Claims Act

The statutory provisions governing the authority to issue, use, and enforce civil investigative demands under section 3733 of title 31, United States Code (popularly known as the 'False Claims Act') shall govern the authority to issue, use, and enforce civil investigative demands under this section, except that for purposes of this section —

- (1) references in that section to false claims law investigators or investigations shall be read as references to investigators or investigations;
- (2) references in that section to interrogatories shall be read as references to written questions, and answers to such need not be under oath;
- (3) the statutory definitions relating to 'false claims law' shall not apply; and
- (4) the provisions relating to qui tam relators shall not apply.

(f) Application

This section applies to any violation of this Act occurring on, before, or after October 13, 2010.

**Legislative Language:**

Section 801 of the SCRA (50 U.S.C. 4041) is amended by adding at the end the following new subsections:

“(d) ISSUANCE AND SERVICE OF CIVIL INVESTIGATIVE DEMANDS.—Whenever the Attorney General, or a designee, has reason to believe that any person may be in possession, custody, or control of any documentary material relevant to an investigation under this Act, the Attorney General, or a designee, may, before commencing a civil action under subsection (a), issue in writing and cause to be served upon such person, a civil investigative demand requiring—

“(1) the production of such documentary material for inspection and copying;

“(2) that the custodian of such documentary material answer in writing written questions with respect to such documentary material; or

“(3) the production of any combination of such documentary material or answers.

“(e) RELATION TO FALSE CLAIMS ACT.—The statutory provisions governing the authority to issue, use, and enforce civil investigative demands under section 3733 of title 31, United States Code (popularly known as the ‘False Claims Act’), shall govern the authority to issue, use, and enforce civil investigative demands under this section, except that, for purposes of this section —

“(1) references in that section to false claims law investigators or investigations shall be read as references to investigators or investigations;

“(2) references in that section to interrogatories shall be read as references to written questions, and answers to such need not be under oath;

“(3) the statutory definitions relating to ‘false claims law’ shall not apply; and

“(4) the provisions relating to qui tam relators shall not apply.

“(f) APPLICATION.—This section applies to any violation of this Act occurring on, before, or after October 13, 2010.”.



<b>SCRA Legislative Proposal #14</b>
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**SCRA, § 801 (50 U.S.C. § 4041) – INCREASE IN CIVIL PENALTIES.**

**Summary:** This section increases the amount of civil penalties currently authorized, and adds a reference to the fact that civil monetary penalties are periodically adjusted for inflation in the Federal Register, as required by the Federal Civil Monetary Penalties Inflation Adjustment Act of 1990.

**Redline:**

Amending SCRA §801(b) (50 U.S.C. 4041(b))

(b) Relief

In a civil action commenced under subsection (a), the court may—

(1) grant any appropriate equitable or declaratory relief with respect to the violation of this chapter;

(2) award all other appropriate relief, including monetary damages, to any person aggrieved by the violation; and

(3) may, to vindicate the public interest, assess a civil penalty—

(A) in an amount not exceeding ~~\$55,000~~ \$110,000 (adjusted for inflation in the Federal Register) for a first violation; and

(B) in an amount not exceeding ~~\$110,000~~ \$220,000 (adjusted for inflation in the Federal Register) for any subsequent violation.

**Legislative Language:**

Subsection (b)(3) of section 801 of the SCRA (50 U.S.C. 4041) is amended—

(1) in subparagraph (A), by striking “\$55,000” and inserting “\$110,000 (adjusted for inflation, as published by the Department of Justice in the Federal Register in accordance with the Federal Civil Monetary Penalties Inflation Adjustment Act of-1990)”; and

(2) in subparagraph (B), by striking “\$110,000” and inserting “\$220,000 (adjusted for inflation, , as published by the Department of Justice in the Federal Register in accordance with the Federal Civil Monetary Penalties Inflation Adjustment Act of-1990)”.